WHEN JUDGE ROAN UNWITTINGLY HELD RED HEADLINE IN FRONT OF JURY, DEFENSE MADE POINT

Jury Is Sent Out of Room While Attorneys for the Defense Tell the Court That the Jurymen Were Seen Reading Red Headline, "State Adds Links to Chain" — Judge Then Calls Jury Back and Cautions Them

FOLLOWING JUDGE'S SPEECH TO THE JURY, TESTIMONY IS RESUMED, NO FURTHER MOTION MADE BY DEFENSE

In His Address to the Jury, Judge Roan Declared That They Must Not Be Influenced by Anything They Had Read in the Newspaper, but Must Form Their Opinion Solely on the Evidence That Was Developed in Court

A red headline in a newspaper, held in the hands of the presiding judge, came near causing a mistrial Saturday about noon in the case against Leo M. Frank.

While the defense did not ask the court to declare a mistrial in the case, it seriously considered in a conference of attorneys, asking that the case be stopped, and while apparently satisfied with an admonition to the jury to disregard anything they might have seen in a paper, it is probable that the incident will be a part of the basis for an appeal, in event the verdict goes against the defense.

During the course of the discussion of the incident Solicitor Dorsey contended that the jurors had not seen the headline.

During the progress of the trial Judge L. S. Roan picked up an extra edition of an afternoon Atlanta newspaper bearing an eight column red headline touching on the case before the jury. The headline read:

"State Adding Links To Chain."

Attorney Rosser for the defense noticed the line and also noticed that the members of the jury were craning their necks to read more of the matter on the front page. Immediately he and his

associates went into conference and the jury was excused from the room.

After Mr. Arnold and Mr. Rosser returned to the court, following their conference, Mr. Arnold held a brief conversation with the judge. Mr. Rosser requested that the jury be sent out. That was done.

Addressing the court, Mr. Rosser said:

"May it please your honor, a few moments ago your honor thought [words illegible] was redaing [sic] a newspaper. One side of the newspaper was turned up and toward the jury. At the top of the page, in red box-car letters, was a headline which stated that the state is adding link upon link against this man. Every member of the jury read this headline. I [words illegible] leading forward, reading it. We don't want to make a motion for a new trial, but we do want your honor to call the jury back and explain to it that it must not be influenced by anything it saw in this or any other newspaper. These red box car letters don't always convey the real facts. These boys over at the press table do their best to get accurate facts. They write their articles and send them to their offices, and someone else writes the headlines."

Attorney Arnold walked to Judge Roan's stand and requested the judge to hand to him the newspaper lying on the desk in front of him. Taking the paper in his hand and unfolding it as he walked back to his table, Attorney Arnold said:

"Everybody knows and loves your honor, and everybody knows that you would not wittingly do anything to influence this case one way or another. But, your honor, in reading this paper, you held it up this way."

Attorney Arnold opened the paper, holding the front page with the red headline toward the jury box.

"The members of the jury read it. This headline reads, ‘State Adds Links to Chain.' We say these are very weasly links. Nevertheless, the jury read this red headline."

Judge Roan interrupted to remark: "I don't suppose that anyone would think that after a week's hard work with this trial I would do anything to jeopardize it. I will ask this jury if they see anything to influence them."

Attorney Rosser objected, saying: "We want your honor to put in writing an admonition to the jury that it is to disregard this headline and anything else that it may see in the newspapers."

SAYS THEY DIDN'T SEE IT.

Solicitor Dorsey spoke.

"We insist, your honor, that the jury did not see this headline. There have been papers in the court room all the time. The defense at the opening of this trial brought in a great pile of the newspapers, which they lay before the jury. The boys on the street constantly are crying these papers, and jurors cannot help but hear them. I do hope that your honor first will inquire of this jury whether it saw anything in this or any other newspaper to influence it. The newspapers have had more damaging headlines than this. I submit that they have treated the state's case with contempt. They should be put in contempt for the manner in which they have treated the state's case."

Judge Roan told Mr. Dorsey that he thought he know what to say, and called in the jury.

The jury was seated.

ROAN'S STATEMENT.

In his statement to the jury Judge Roan neither wholly acquiesced in the contention of the solicitor nor in that of the state.

"Gentlemen of the jury, as you know, this is an important case. We have to be extremely careful and cautious that nothing gets to the jury except the evidence introduced here. It has been said by some that since the trial of this case commenced you have been able to see some writings or headlines in the newspapers that might influence you.

"You, gentlemen of the jury, are trying this case, and by the evidence introduced here. I want to warn you again, and do warn you, that nothing you might see in a newspaper or that you might hear on the streets, or even in the court room, should have a particle of weight, except the evidence put before you legally. If you have seen anything in the newspapers, or heard anything, I beg of you now to free your mind of it, regardless of whether it be helpful to the state or to the defense."